

NOT FOR PUBLICATION

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA, :
: Plaintiff, :
: :
v. : :
: :
HERBERT S. POWELL, :
: Defendant. :
:
:

O R D E R

LINARES, District Judge.

This matter comes before the Court on the Corrigendum of Deluding Pre-Sentence Report submitted by Defendant Herbert S. Powell (“Defendant” or “Powell”) on June 5, 2009, and docketed by this Court on June 29, 2009. No oral argument was held.

Powell was sentenced by this Court on January 28, 2005 to 56 months imprisonment after pleading guilty to bank fraud and conspiracy to commit bank fraud. He now seeks to modify his Presentence Investigation Report (“PSR”) in order to have it reflect his service in the United States Air Force and his United States citizenship. (Corrigendum at 1.) The Government, in its response to Powell’s filing, notes that the PSR already reflects Powell’s military service and also notes that Powell did not provide any evidence of his U.S. citizenship in his Corrigendum. (Gov’t Opp. at 1-2.) Powell’s reply concedes that the PSR reflects his Air Force service, but maintains he is a U.S. citizen by virtue of 8 U.S.C. § 320.

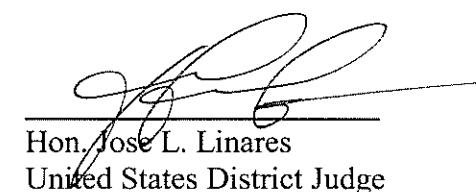
Insofar as the relief Powell seeks is related to the accuracy of the PSR, this Court can grant no relief. The time for Powell to challenge the substance of the PSR has long passed. Fed.

R. Crim. P. 32(f)(1) (requiring objections to PSR be filed within 14 days of receipt).

A motion on a closed criminal docket is also not a viable means to begin naturalization proceedings. This Court notes that the both Powell and the Government attached an immigration detainer issued to their papers, under which Immigration and Customs Enforcement may attempt to deport Powell to Jamaica upon his release from prison. (Corrigendum Att. A at 2; Gov't Opp. at 4.) If Powell seeks to challenge this detainer, he must do so through the proper administrative and legal means, not by filing motions on his criminal docket. Good cause having been found, for the reasons heretofore given,

IT IS THIS 24 day of September, 2009,

ORDERED that Defendant's motion to correct his PSR [CM/ECF #132] is DENIED.



Hon. Jose L. Linares
United States District Judge